IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 13453 of 2007(B)

PETITIONER:

NABEESA KOYA, W/O. KOYA,
PROPRIETRESS KOYAS INTERNATIONAL, ERAYAMKUDY,
MAMBRA, ERNAKULAM DISTRICT, KERALA.

BY ADV. SRI.C.D.JOHNY
SMT.MEREENA JOSEPH

RESPONDENTS:
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1. CIRCLE INSPECTOR OF POLICE,
ANGAMALY POLICE STATION, ANGAMALY.

2. SUPERINTENDENT OF POLICE,
ERNAKULAM RURAL, ALUVA, ERNAKULAM DISTRICT.

3. NELSON ANTONY, S/O. ANTONY,
KALLANCHERRY HOUSE, AYYAMPUZHA P.O., ERNAKULAM
DISTRICT.

4. THOMAS PHILIP,
KALATHIPARAMBIL HOUSE, MUKKADA P.O.,
KOTTAYAM DISTRICT.

5. MATHEW SATHEESAN,
THARAKKUNNEL HOUSE, NELLIKUTTY P.O., CHEMBERY,
KANNUR DISTRICT, PIN - 670 632.

BY GOVERNMENT PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC 13453/07)

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE REGISTRATION CERTIFICATE NO.4057/KER/PER/1000/3/6532/2004 DATED 13.5.04 ISSUED BY THE PROTECTOR GENERAL OF EMIGRANTS, AKBAR BHAVAN, SATYA MARG, NEW DELHI.

EXT.P2 TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 9.4.07.

RESPONDENTS' EXTS.

ANNEXURE-R1(a) – A TRUE COPY OF THE JUDGMENT DATED 15.5.2007.

/TRUE COPY/

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO.13453 OF 2007-B

Dated 7th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner has approached this Court, seeking police protection to her life, the lives of other members of her family and also protection to her property. She alleges that respondents 3 to 5 attempted to enter the compound of her residence, trespass into the residential building and assault her. So, she has filed Ext.P2 representation seeking protection to her life and property and also that of her family members. She also prays in that representation to prevent trespass into her compound.

2. A statement has been filed by the 1st respondent, in which it is submitted that the petitioner and her family members are accused in 13 cases, involving offences under Sections 323, 325, 371, 374, 406 and 420 of the I.P.C and also under sub-sections (f) and (g) of Section 24 of the Emigration Act. The details of the crimes registered against them are the following:

"1. Crime 786/06 u/s.420, 406, 34 IPC.
2. Crime 53/07 u/s.120(B), 323, 325, 370, 371, 374, 420 IPC and Emigration Act Section 24(f) and (g)
3. Crime 54/2007 u/s.120(B), 323, 325, 370, 371, 374, 420 IPC.
4. Crime 57/07 u/s.120(B), 323, 325, 370, 371, 374, 420 IPC and Sec.24(f) and (g) of Emigration Act.
5. Crime 60/07 u/s.120(B), 323, 325, 370, 371, 374, 420 IPC and Sec.24(f) and (g) of Emigration Act.
6. Crime 61/07 u/s.120(B), 323, 325, 370, 374, 420 IPC and Sec.24(f) and (g) of Emigration Act.
7. Crime 71/07 u/s.120(B), 323, 325, 371, 370, 420, 374 IPC and Sec.24(f) & (g) of Emigration Act.
8. Crime 72/07 u/s.120(B), 323, 325, 374, 371, 370, 420 IPC and Sec.24(f) and (g) of Emigration Act.
9. Crime 80/07 u/s.120(B), 323, 325, 370, 371, 374, 420 IPC and Sec.24(f) & (g) of Emigration Act.
10. Crime 88/07 u/s.420 IPC
11. Crime 101/07 u/s.420, 406, 34 IPC.
12. Crime 104/07 u/s.420, 370, 34 IPC.
13. Crime 259/07 u/s.420 IPC."

3. Having regard to the facts of the case, we feel that this is not a fit case where this Court should grant the discretionary remedy under Article 226 of the Constitution of India. If somebody commits any wrongful act, the petitioner can move the police and if the police do not take action, she can move the criminal court. If somebody trespasses into her property, the petitioner can move the civil court also. Without prejudice to her rights in

this regard, the writ petition is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NARI, JUDGE.

Nm/